IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 475 of 1984

For Approval and Signature:
HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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G.S.R.T.C. - Appellant(s)
Versus
MANGALABEN BHUPATLAL BHIMANI & 3 - Defendant(s)

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Appearance :
MS MAYA DESAI for Appellant,
MR PREMAL S RAJ for Respondent Nos.1 to 3.
NONE for Respondent No.4 though served.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 21/06/2007

ORAL JUDGMENT

1. Ms.Maya Desai, learned counsel for the appellant and Mr.Premal S.Raj, under the authority of Mr.P.M. Thakker, learned counsel for the respondent Nos.1 to 3 (Original claimants). None for the respondent No.4 though served.

2. Gujarat State Road Transport Corporation, owner of the State Transport Bus, being aggrieved by the impugned Judgement and Award dtd.22/8/1983 passed by the Motor Accident Claims Tribunal, Rajkot (Main), in Motor Accident Claim Petition No.579 of 1982, is before this Court with a submission that the Award and compensation awarded in favour of the claimants suffer with vice of excessiveness. It is submitted that looking to the age of the mother, who could be treated to be sole dependent, multiplier of 16 could not be applied.

3. Ms.Maya Desai, learned counsel for the appellant during the course of the arguments submitted that one of the claimant is married sister, while the other was of marriageable age and the mother, if was of 50 years, then, multiplier could not have been more than 12-13.

4. Mr.Premal S. Raj, learned counsel for the respondent Nos.1 to 3 – original claimants submits that present is not a case where the tribunal has whimsically or arbitrarily applied multiplier of 16. He submits that on the date of the death and on the date of the claim petition, the mother of the deceased was 50 years, but she is still alive. He submits that the dependency was assessed at Rs.1700=00 per annum. In the present set of the

circumstances, when the Index Number has gone so high, it may prove unjust if the multiplier is reduced.

5. After hearing the parties and taking into consideration the totality of the circumstances and further taking into consideration that yearly dependency was calculated at Rs.1560=00 only. If multiplier of 13 is only applied, then the claim would be reduced by 4680=00 only. The claim petition was decided on 22/8/1983 and if at this stage, after 24 years, figure of multiplier is changed, in the opinion of this Court, the same would be unjust. Even for a small amount of Rs.4680=00, I do not think that this Court is required to interfere in the matter. Though respondent No.4 – driver is unserved, but as the liability is to be borne by the Gujarat State Road Transport Corporation, I do not think that final disposal of the appeal by this Court should still await the service of the notice upon the respondent No.4 - driver.
6. The appeal deserves to and is accordingly dismissed. Interim relief, if any, is vacated. No costs.

(R.S. GARG, J.)

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